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U.S. District Court United States District Court for the Western District of Washington (Seattle) CIVIL DOCKET FOR CASE #: 2:19-cv-00645-TSZ

National Parks Conservation Association v. US Department of the Navy

Assigned to: Judge Thomas S. Zilly

Cause: 05:552 Freedom of Information Act

Date Filed: 05/02/2019 Jury Demand: None

Nature of Suit: 895 Freedom of Information Act Jurisdiction: U.S. Government Defendant

Plaintiff

National Parks Conservation Association

a non-profit corporation

represented by Claire Tonry

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Defendant

US Department of the Navy

a federal agency

represented by Katie Denise Fairchild

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Date Filed	#	Docket Text
05/02/2019	1	COMPLAINT for Declaratory and Injunctive Relief against defendant(s) United States Department of the Navy (Receipt # 0981-5751724), filed by National Parks Conservation Association. (Attachments: # 1 Civil Cover Sheet, # 2 Summons)(Tonry, Claire) (Entered: 05/02/2019)
05/02/2019	2	APPLICATION OF ATTORNEY Thomas Buchele FOR LEAVE TO APPEAR PRO HAC VICE for Plaintiff National Parks Conservation Association (Fee Paid) Receipt No. 0981-5751790 (Tonry, Claire) (Entered: 05/02/2019)
05/02/2019	3	ORDER re 2 Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney Thomas Buchele for Plaintiff National Parks Conservation Association by Clerk William M McCool. No document associated with this docket entry, text only. NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date scheduled by the court, pursuant to LCR 83.1(d).(DS) (Entered: 05/02/2019)
05/03/2019		Judge Thomas S. Zilly added. (GT) (Entered: 05/03/2019)
05/03/2019		NOTICE Pursuant to Fed.R.Civ.P 7.1, Plaintiff(s) must file a Corporate Disclosure Statement by 5/10/2019. (GT) (Entered: 05/03/2019)
05/03/2019	4	Summons Electronically Issued as to defendant US Department of the Navy. (GT) (Entered: 05/03/2019)
05/03/2019	<u>5</u>	CORPORATE DISCLOSURE STATEMENT indicating no Corporate Parents and/or Affiliates. Filed pursuant to Fed.R.Civ.P 7.1. Filed by National Parks Conservation Association (Tonry, Claire) (Entered: 05/03/2019)
05/16/2019	<u>6</u>	ORDER directing counsel to confer and to file a Joint Status Report by 8/16/2019. Signed by Judge Thomas S. Zilly. (SWT) (Entered: 05/16/2019)
06/05/2019	7	NOTICE of Appearance by attorney Katie Denise Fairchild on behalf of Defendant US Department of the Navy. (Fairchild, Katie) (Entered: 06/05/2019)
07/10/2019	8	Stipulated MOTION to Stay <i>Litigation</i> , filed by Defendant US Department of the Navy. Noting Date 7/10/2019, (Fairchild, Katie) (Entered: 07/10/2019)

07/15/2019	9	MINUTE ORDER granting parties' <u>8</u> Stipulated Motion <i>treated as</i> a Motion for Extension; extending deadline for counsel to confer and file a Joint Status Report to 10/2/2019. This case remains on the active docket. Authorized by Judge Thomas S. Zilly. (SWT) (Entered: 07/15/2019)
09/30/2019	<u>10</u>	Joint Stipulated MOTION to Extend Deadlines, filed by Defendant US Department of the Navy. Noting Date 9/30/2019, (Fairchild, Katie) (Entered: 09/30/2019)
10/02/2019	<u>11</u>	JOINT STATUS REPORT signed by all parties estimated Trial Days: 3. (Fairchild, Katie) (Entered: 10/02/2019)
10/03/2019	12	MINUTE ORDER granting in part and striking in part as moot parties 10 Stipulated Motion for Extension: deadline for defendant to file a responsive pleading or motion is extended to 11/8/2019; regarding parties' 11 Joint Status Report, the Court SETS the following deadlines: Dispositive motions due by 3/30/2020, Plaintiff shall file any cross-motion, consolidated with its response to defendant's motion by 4/30/2020, Defendant's response to plaintiff's cross-motion, consolidated with its reply in support of its own motion shall be filed by 5/18/2020, Plaintiff's reply in support of its cross-motion shall be filed by 5/22/2020. Authorized by Judge Thomas S. Zilly.(SWT) (Entered: 10/03/2019)
11/08/2019	<u>13</u>	ANSWER to 1 Complaint, by US Department of the Navy.(Fairchild, Katie) (Entered: 11/08/2019)
02/27/2020	14	Unopposed MOTION for Leave to File Supplemental Complaint, filed by Plaintiff National Parks Conservation Association. (Attachments: # 1 Exhibit Supplemental Complaint, # 2 Exhibit Red-line Supplemental Complaint, # 3 Proposed Order) Noting Date 2/27/2020, (Tonry, Claire) (Entered: 02/27/2020)
02/27/2020	<u>15</u>	DECLARATION of Tom Buchele filed by Plaintiff National Parks Conservation Association re 14 Unopposed MOTION for Leave to File Supplemental Complaint (Tonry, Claire) (Entered: 02/27/2020)
03/06/2020	16	MINUTE ORDER granting Plaintiff's 14 Motion for Leave to File Supplemental Complaint: Plaintiff shall electronically file its supplemental complaint within seven (7) days of the date of this Minute Order. Defendant's responsive pleading or motion shall be filed within fourteen (14) days after the supplemental complaint is filed. The deadlines for dispositive motions and related briefing set forth in the Minute Order entered 10/3/2019, docket no. 12, are STRICKEN. Within twenty-eight (28) days after the supplemental complaint is filed, or by 4/10/2020, whichever is earlier, the parties shall meet and confer and file a Joint Status Report setting forth proposed deadlines for dispositive motions and related briefing. Authorized by Judge Thomas S. Zilly.(MW) (Entered: 03/06/2020)
03/09/2020	<u>17</u>	Supplemental AMENDED COMPLAINT against defendant(s) US Department of the Navy, filed by National Parks Conservation Association.(Tonry, Claire) (Entered: 03/09/2020)
03/23/2020	<u>18</u>	ANSWER to 17 Amended Complaint by US Department of the Navy.(Fairchild, Katie) (Entered: 03/23/2020)
04/03/2020	<u>19</u>	NOTICE of Appearance by attorney Kristin Berger Johnson on behalf of Defendant US Department of the Navy. (Johnson, Kristin) (Entered: 04/03/2020)
04/06/2020	<u>20</u>	JOINT STATUS REPORT signed by all parties. (Fairchild, Katie) (Entered: 04/06/2020)
04/06/2020	<u>21</u>	DECLARATION of Tom Buchele re 20 Joint Status Report by Defendant US Department of the Navy (Fairchild, Katie) (Entered: 04/06/2020)
04/06/2020	22	DECLARATION of COMMANDER ERIN QUAY, JAGC, U.S. NAVY re 20 Joint Status Report by Defendant US Department of the Navy (Attachments: # 1 Exhibit 1)(Fairchild, Katie) (Entered: 04/06/2020)
04/08/2020	23	MINUTE ORDER: Having reviewed the parties' Joint Status Report, docket no. 20, and the Declarations of Tom Buchele, docket no. 21, and Commander Erin Quay, docket no. 22, the Court ORDERS as follows. (a) On or before 5/8/2020, defendant shall (i) release to plaintiff any and all materials not previously produced that are responsive to plaintiff's requests under the Freedom of Information Act ("FOIA") and not exempt from disclosure, and (ii) provide plaintiff with a "Vaughn index" listing each withheld document and explaining why it was not disclosed. See Vaughn v. Roser 484 F.2d 820 (D.C. Cir. 1973). (b) Dispositive motions shall be filed by 5/28/2020, and noted for the fourth Friday thereafter. Authorized by Judge Thomas S. Zilly. (MW) (Entered: 04/08/2020)
04/21/2020	<u>24</u>	NOTICE of Appearance by attorney Michelle R. Lambert on behalf of Defendant US Department of the Navy. (Lambert, Michelle) (Entered: 04/21/2020)

05/21/2020	<u>25</u>	Unopposed MOTION for Leave to File Over-length Motions and Briefs , filed by Plaintiff National Parks Conservation Association. (Attachments: # 1 Proposed Order) Noting Date 5/21/2020, (Tonry, Claire) (Entered: 05/21/2020)
05/26/2020	26	MINUTE ORDER granting Plaintiff's <u>25</u> Motion for Leave to File Over-length Motions and Briefs: Plaintiff's motion for summary judgment shall not exceed twenty-nine (29) pages in length. Any response shall not exceed twenty-nine (29) pages in length, and any reply shall not exceed fourteen-and-a-half (14) pages in length. Signed by Judge Thomas S. Zilly.(MW) (Entered: 05/26/2020)
05/28/2020	27	MOTION for Summary Judgment, filed by Defendant US Department of the Navy. (Attachments: # 1 Proposed Order Granting Motion for Summary Judgment, # 2 Supplement Acronym Key) Noting Date 6/19/2020, (Lambert, Michelle) (Entered: 05/28/2020)
05/28/2020	28	DECLARATION of Bradford B. Byrnes filed by Defendant US Department of the Navy re 27 MOTION for Summary Judgment (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit, # 8 Exhibit, # 9 Exhibit, # 10 Exhibit, # 11 Exhibit, # 12 Exhibit, # 13 Exhibit, # 14 Exhibit, # 15 Exhibit, # 16 Exhibit)(Lambert, Michelle) (Entered: 05/28/2020)
05/28/2020	<u>29</u>	DECLARATION of Bradford B. Byrnes filed by Defendant US Department of the Navy re 27 MOTION for Summary Judgment (Lambert, Michelle) (Entered: 05/28/2020)
05/28/2020	30	DECLARATION of Commander Erin Quay filed by Defendant US Department of the Navy re 27 MOTION for Summary Judgment (Attachments: # 1 Exhibit Q, # 2 Exhibit R, # 3 Exhibit S, # 4 Exhibit T, # 5 Exhibit U, # 6 Exhibit V, # 7 Exhibit X, # 8 Exhibit Y, # 9 Exhibit Z)(Lambert, Michelle) (Entered: 05/28/2020)
05/28/2020	31	DECLARATION of John Mosher filed by Defendant US Department of the Navy re 27 MOTION for Summary Judgment (Attachments: # 1 Exhibit W)(Lambert, Michelle) (Entered: 05/28/2020)
05/28/2020	32	MOTION for Summary Judgment, filed by Plaintiff National Parks Conservation Association. (Attachments: #1 Exhibit Attachment 1 - 2016 Vaughn Index, #2 Exhibit Attachment 2 - 2018 Vaughn Index, #3 Exhibit Attachment 3 - EPA Referral Vaughn Index, #4 Exhibit Attachment 4 - 2019 Vaughn Index, #5 Exhibit Attachment 5 - Byrnes Declaration, #6 Proposed Order) Noting Date 6/19/2020, (Tonry, Claire) (Entered: 05/28/2020)
05/28/2020	33	DECLARATION of Rob Smith filed by Plaintiff National Parks Conservation Association re 32 MOTION for Summary Judgment (Attachments: # 1 Exhibit A - Olympic National Park Factsheet, # 2 Exhibit B - Navy Growler Photo, # 3 Exhibit C - 2016 Seattle Times Article, # 4 Exhibit D - FAA Transit Routes, # 5 Exhibit E - 2017 New York Times Article, # 6 Exhibit F - 2016 Navy FOIA Request, # 7 Exhibit G - 2018 FOIA Request to Navy, # 8 Exhibit H - 2019 EPA FOIA Request, # 9 Exhibit I - 2017 Scoping Comments Letter, # 10 Exhibit J - 2019 NPCA Final Comment, # 11 Exhibit K - 2019 Draft SEIS Flight Transit Routes, # 12 Exhibit L - 2019 Bloomberg Noise Expert Report, # 13 Exhibit M - May 31 Buchele Email Request for Noise Data)(Tonry, Claire) (Entered: 05/28/2020)
05/28/2020	34	DECLARATION of Kevin Cassidy filed by Plaintiff National Parks Conservation Association re 32 MOTION for Summary Judgment (Attachments: # 1 Exhibit A - 2016 Navy's Initial Response, # 2 Exhibit B - 2016 Final Navy FOIA Appeal, # 3 Exhibit C - 2016 Navy Appeal Letter Remanding, # 4 Exhibit D - 2017 Navy Remand Response Letter, # 5 Exhibit E - 2017 Final Navy Admin Appeal, # 6 Exhibit F -2017 Remand From Second FOIA Appeal, # 7 Exhibit G - 2018 Signed Letter to Shannon, # 8 Exhibit H - Aug 8 Email to Brival, # 9 Exhibit I - Aug 13 Email from Brival, # 10 Exhibit J - Aug 14 Email Exchange re Eaves, # 11 Exhibit K - Oct 29 Quay Email to Cassidy, # 12 Exhibit L -Mar 28 Cassidy Email to Strong, # 13 Exhibit M - 2019 Partial FOIA Response Letter, # 14 Exhibit N - 2019 FOIA Response Letter, # 15 Exhibit O - 2019 FOIA Final Appeal, # 16 Exhibit P - 2019 Earthrise Remand of FOIA Appeal, # 17 Exhibit Q - 2019 Navy Letter to Buchele, # 18 Exhibit R - 2019 Admin Appeal of EPA Referral, # 19 Exhibit S - 2019 Navy Denial of FOIA Appeal, # 20 Exhibit T - Merged List of Preparers, # 21 Exhibit U - Merged Excerpts from 2010, 2015 EISs, # 22 Exhibit V - Excerpted USFS Decision Notice, # 23 Exhibit W - May 2020 Navy Appeal Denial)(Tonry, Claire) (Entered: 05/28/2020)

05/28/2020	35	DECLARATION of Morgan Staric filed by Plaintiff National Parks Conservation Association re 32 MOTION for Summary Judgment (Attachments: # 1 Exhibit A - 2019 Navy Response Letter, # 2 Exhibit B - Enclosing Letter, # 3 Exhibit C - 2019 Letter re FOIA Supp. Production, # 4 Exhibit D - FAA Transit Routes in Black & White, # 5 Exhibit E - Summary of Public Comment - Navy Permit EA, # 6 Exhibit F - 2019 Navy FOIA Remand Response Letter, # 7 Exhibit G - 2019 Earthrise FOIA Remand Interim Response, # 8 Exhibit H - 2019 FOIA Enclosing Letter, # 9 Exhibit I - 2019 Navy Final Response to Remand, # 10 Exhibit J - 2019 Navy FOIA Appeal - Final, # 11 Exhibit K - Feb 18 Email from Zeigler, # 12 Exhibit L - Sep 23 Email from Johnson, # 13 Exhibit M - FOIA Online Search, # 14 Exhibit N - 2020 Navy FOIA Interim Response Letter, # 15 Exhibit O - NW Training and Testing Draft Supp. EIS, # 16 Exhibit P - Mar 4 NPCA 7736 Email, # 17 Exhibit Q - Oct 14 NPCA 9018 Email, # 18 Exhibit R - April 9 NPCAII 1618 Email, # 19 Exhibit S - Table of comments with redacted named, # 20 Exhibit T -2015 Post Lawsuit Letter - Unredacted, # 22 Exhibit V - May 10 EW Range Permit Objection Email - Redacted, # 23 Exhibit W - May 10 Email re Review of NWTT - Redacted, # 24 Exhibit X - Sept 7 Email 1 Non-Dod Source - Redacted, # 25 Exhibit Y - Sept 7 Email 2 Non-Dod Source - Redacted, # 26 Exhibit Z - Sept 7 NPCA EPA Ref. 286 Email, # 27 Exhibit AA - Sept 7 NPCA EPA Ref. 317 Email, # 28 Exhibit BB - Oct 16 NPCA 13429 Email - Redacted, # 29 Exhibit CC - Nov 14 FOIA Email from FWS - Unredacted, # 30 Exhibit D - July 7 NPCA 12069 Email - Redacted, # 31 Exhibit EE - May 22 NWTT Comments Email - Redacted, # 32 Exhibit HH - Table of Documents Missing on Vaughn, # 35 Exhibit II - Table of Records Missing Attachments, # 36 Exhibit LL - Sept 9 NPCA 12326 Email, # 39 Exhibit MM - Records to be Produced in Color)(Tonry, Claire) (Entered: 05/28/2020)
06/15/2020	<u>36</u>	RESPONSE, by Defendant US Department of the Navy, to 32 MOTION for Summary Judgment . (Attachments: # 1 Exhibit Acronym Key, # 2 Proposed Order)(Lambert, Michelle) (Entered: 06/15/2020)
06/15/2020	<u>37</u>	DECLARATION of John Mosher ("Mosher II Decl.") filed by Defendant US Department of the Navy re 32 MOTION for Summary Judgment (Lambert, Michelle) (Entered: 06/15/2020)
06/15/2020	38	DECLARATION of Erin Quay ("Quay II Decl.") filed by Defendant US Department of the Navy re 32 MOTION for Summary Judgment (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4) (Lambert, Michelle) (Entered: 06/15/2020)
06/15/2020	<u>39</u>	RESPONSE, by Plaintiff National Parks Conservation Association, to <u>27 MOTION</u> for Summary Judgment . (Tonry, Claire) (Entered: 06/15/2020)
06/15/2020	40	Second DECLARATION of Morgan Staric filed by Plaintiff National Parks Conservation Association re 27 MOTION for Summary Judgment (Attachments: # 1 Exhibit A - Oct 2019 production of NPCA 16313, # 2 Exhibit B - Oct 2019 production of NPCA 16314, # 3 Exhibit C - Appendix K to the 2015 EIS, # 4 Exhibit D - NPCA website comment on 2019 draft SEIS, # 5 Exhibit E - NPCA 6448, # 6 Exhibit F - NPCA 14815, # 7 Exhibit G - NPCA 12320, # 8 Exhibit H - NPCA 12153, # 9 Exhibit I - NPCAII 221 and attachment, # 10 Exhibit K - 2nd List of Records for In Camera Review, # 11 Exhibit L - NPCA 10812, # 12 Exhibit M - NPCA 11727, # 13 Exhibit N - June 15, 2020 email from Navy counsel, # 14 Exhibit O - NPCA_FAA 666 excerpt)(Tonry, Claire) (Entered: 06/15/2020)
06/15/2020	41	DECLARATION of Les Blomberg filed by Plaintiff National Parks Conservation Association re 27 MOTION for Summary Judgment (Attachments: # 1 Exhibit A - NPCA 14892, # 2 Exhibit B - NPCAIII 1) (Tonry, Claire) (Entered: 06/15/2020)
06/19/2020	42	REPLY, filed by Plaintiff National Parks Conservation Association, TO RESPONSE to 32 MOTION for Summary Judgment (Attachments: # 1 Proposed Order (Revised))(Tonry, Claire) (Entered: 06/19/2020)
06/19/2020	43	REPLY, filed by Defendant US Department of the Navy, TO RESPONSE to 27 MOTION for Summary Judgment (Lambert, Michelle) (Entered: 06/19/2020)
06/19/2020	44	DECLARATION of Brad Byrnes filed by Defendant US Department of the Navy re 27 MOTION for Summary Judgment (Attachments: # 1 Exhibit)(Lambert, Michelle) (Entered: 06/19/2020)
06/19/2020	<u>45</u>	Third DECLARATION of Commander Erin Quay filed by Defendant US Department of the Navy re 27 MOTION for Summary Judgment (Lambert, Michelle) (Entered: 06/19/2020)
06/22/2020	<u>46</u>	NOTICE of Intent to File Surreply re 44 Declaration, 45 Declaration, 43 Reply to Response to Motion; filed by Plaintiff National Parks Conservation Association. (Tonry, Claire) (Entered: 06/22/2020)

06/24/2020	<u>47</u>	SURREPLY filed by Plaintiff National Parks Conservation Association re 27 MOTION for Summary Judgment (Tonry, Claire) (Entered: 06/24/2020)
07/06/2020	48	PRAECIPE to attach document <i>and correct reply brief</i> re 40 Declaration,,, 42 Reply to Response to Motion by Plaintiff National Parks Conservation Association (Attachments: # 1 Exhibit Corrected Reply Brief (ECF No. 42), # 2 Exhibit Corrected 2nd Staric Decl. (ECF No. 40), # 3 Exhibit P - (Exhibit to Corrected 2nd Staric Decl.))(Tonry, Claire) (Entered: 07/06/2020)